Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

Lifeline and Link-Up Reform and Modernization	)	WC Docket No. 11-42
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109
	)	

To: The Commission

COMMENTS OF CONEXIONS LLC dba CONEXION WIRELESS

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April 21, 2011

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Conexions LLC dba Conexion Wireless ("Conexions) offers the following comments on the Commissions Notice of Proposed Rulemaking proposing changes to the low-income universal service support programs, Lifeline and Link-Up.[1] Conexions is a partially facilities-based wireless provider focused on providing packages of service that are uniquely valuable to low-income communities. The Commission has found it in the public interest to grant Conexions forbearance from the facilities requirement necessary for designation as a Lifeline ETC.[2] Conexions has been designated as a special purpose ETC to participate in the low-income support programs by Maryland and Arkansas, and has a petition pending before the Commission

[1] *Lifeline and Link-Up Reform and Modernization; Federal-State Joint Board on Universal Service; Lifeline and Link-Up*, WC Docket No. 11-42; CC Docket No. 96-45; WC Docket No. 03-109, Notice of Proposed Rulemaking, FCC 11-32 (rel. March 4, 2011) ("NPRM").

[2] *Telecommunications Carriers Eligible for Universal Service Support, Federal-State Joint Board on Universal Service, Conexions Petition for Forbearance*, WC Docket No. 09-197, CC Docket No. 96-45, Order, 25 FCC Rcd 13866 (2010) ("*Conexions Forbearance Order*").

for designation in the states that lack jurisdiction to designate wireless ETCs.[3] Conexions thus will be directly affected by the rules adopted in this proceeding.

I. COMPETITION WILL RESOLVE SOME OF THE ISSUES RAISED IN THE NPRM

Among the Commission's principles for universal service reform is to "transition to market-driven and incentive-based policies that encourage technologies and services that maximize the value of scarce program resources and the benefits to all consumers."[4] In the Lifeline ETC context, the Commission has recognized that competition among providers of Lifeline services will ensure that "rates are just and reasonable and not unjustly or unreasonably discriminatory" and "will spur innovation among carriers in their Lifeline offerings, expanding the choice of Lifeline products for eligible consumers."[5]

These principles are the most effective means of addressing several of the issues raised in the NPRM. Conexions and its management team have extensive experience working with low-income consumers, and have found these individuals and families to be extremely savvy and careful in making spending decisions. The more that ETCs must compete with one another for low-income consumers' business, the more the market will have the opportunity to ensure that both low-income consumers and the Fund receive maximum value for precious support dollars.

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[3] *Comment Sought On Conexions LLC dba Conexion Wireless Petition for Limited Designation As an Eligible Telecommunications Carrier in Several States*, WC Docket No. 09-197, Public Notice, 24 FCC Rcd 13509 (2009); Amendment to Special Low-Income ETC Petition, WC Docket No. 09-197 (filed Jan. 5, 2011).

[4] *Connect America Fund, et al.*, WC Docket No. 10-90 *et al*., Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, FCC 11-13 (rel. Feb. 9, 2011) at ¶ 10.

[5] *Conexions Forbearance Order*, 25 FCC Rcd at 13868-69 ¶ 9.

Thus, rather than adopting prophylactic rules on the issues discussed in this section, the Commission should proceed without delay to clear the backlog of Lifeline ETC petitions pending before it, and should urge state commissions to do the same.

A. Lifeline ETCs Have Ample Incentive to Engage in Effective Marketing and Outreach

Under pressure from the competitive market, Lifeline ETCs will have every incentive to ensure that their marketing and outreach is effective at reaching all segments of the low-income community. As noted above, low-income consumers will make intelligent choices when presented with options; thus, in a competitive environment, Lifeline ETCs will be forced to market their services effectively. Carriers that perform inadequate outreach will win no customers, and will see any existing customer taken by other carriers that market their services more effectively.

The Joint Board's concern about the adequacy of ETCs' marketing to date is based on Lifeline take rates primarily before the entry of significant competition in the Lifeline market.[6] The first mobile Lifeline ETC was designated less than a year before the time period covered in the dataset considered by the Joint Board.[7] As the NPRM observes, the number of Lifeline subscribers has grown rapidly since then, and mobile Lifeline ETCs now serve over one-third of all Lifeline customers.[8]

To ensure adequate marketing of Lifeline to eligible consumers, the best course is to maximize competition in the Lifeline marketplace. The Commission can do this by granting the

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[6] *See* NPRM at ¶ 228 (citing 2009 USAC data).

[7] *See id.* at n.12.

[8] *Id.* at ¶ 27.

backlog of Lifeline ETC petitions pending before it, and urging the states to do the same. There is no reason to impose any specific outreach requirements on ETCs.[9]

B. Competition Will Ensure Consumers Receive High-Quality Service

The same competitive forces that will ensure that carriers market Lifeline services effectively also will ensure that carriers deliver sufficient value and service quality to consumers.[10] Like its concern about outreach and marketing, the Joint Board's concern about the value of prepaid wireless Lifeline plans pre-dates the entry of additional prepaid wireless Lifeline ETCs into the market.[11] As noted above, Lifeline customers are savvy consumers and, if presented with options, will make rational choices. Carriers that provide low-quality service or insufficient value will lose customers to other ETCs that offer higher-quality service or more value.

Anecdotally, it has been Conexions' experience that the value of prepaid wireless Lifeline service plans (in terms of included minutes and levels of overage charges) has increased in states that have certified additional Lifeline ETCs. Thus, the best way to ensure the quality and value of Lifeline services is to certify additional Lifeline ETCs, not to impose burdensome rules.

II. MVNOS MUST BE ABLE TO RECOVER THEIR SERVICE INITIATION COSTS THROUGH LINK-UP

In Conexions' experience, facilities-based wireless carriers impose significant per-customer service-initiation charges on MVNOs, often exceeding the $30 threshold for Link-Up

[9] Conexions has no objection, however, to a requirement that ETCs be required to clearly label Lifeline offerings with the Lifeline name. *Id.* at ¶¶ 237-238.

[10] *Id.* at ¶¶ 252-254.

[11] *Id.* at ¶ 252.

reimbursement. The business of providing service to low-income customers on an MVNO basis is not a high-margin business. Thus, it is crucial that MVNOs like Conexions can recoup these costs through Link-Up. Wireless MVNOs bring valuable competition into the Lifeline marketplace and should be encouraged.

Facilities-based carriers impose these costs on MVNOs when a customer discontinues and re-initiates service,[12] so there is no basis to deny reimbursement. Doing so would only penalize low-income consumers who are having problems paying their bills.

Do not object to NPRM's proposal to permit recovery only of charges that are imposed on all of a carrier's customers.[13] However, reimbursement should

III. CONEXIONS SUPPORTS INDUSTRY EFFORTS TO ADDRESS THE DUPLICATE CLAIMS ISSUE

Conexions agrees with the Commission that waste, fraud, and abuse must be eliminated from the Lifeline and Link-Up programs.[14] At the same time, Conexions shares the concerns raised by CTIA, USTelecom, and other ETCs with regard to the Wireline Competition Bureau's letter directing USAC and ETCs to implement an interim approach to handling duplicate claims for support.[15] Conexions therefore urges the Commission to adopt the Carrier Duplicates Proposal as the interim solution to address the duplicate claims issue. Also consistent with the

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[12] *Id.* at ¶ 75.

[13] *Id.* at ¶ 73.

[14] *See id.* at ¶ 46.

[15] Letter from CTIA, USTelecom, AT&T, CenturyLink, Cox Communications, Inc., General Communication, Inc., Nexus Communications, Inc., Sprint Nextel Corp., Tracfone Wireless, Inc., and Verizon Communications, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45 (filed April 15, 2011) ("Carrier Duplicates Proposal").

Carrier Duplicates Proposal, Conexions urges the Commission to proceed without delay to establish a centralized database of Lifeline-eligible consumers.

As it considers a long-term rule to address duplicate claims, Conexions urges the Commission to bear in mind the personal and mobile nature of wireless service. This may make adoption of a one-per-residence rule[16] impractical. Limiting Lifeline customers to a single connection per residential location would eliminate all of the well-documented benefits of mobility, including the potential for using the Lifeline service in an emergency situation outside the home.

Also, until the database is in place, the Commission should not eliminate self-certification.[17] In Conexions' experience, obtaining documentary evidence of prospective Lifeline customers' eligibility is extremely burdensome and invasive for both ETCs and customers. It also significantly undermines carrier marketing efforts, which the Joint Board and the Commission are otherwise trying to encourage.[18] Specifically, a requirement to obtain documentary evidence interferes with ETCs' ability to sign up customers by phone or online, because low-income customers generally lack access to equipment such as scanners and fax machines. Even exchanging documents by mail requires that the low-income consumer have access to a photocopy machine, and substantially slows the process and increases the burden for all concerned. Thus, the Commission should continue to allow Lifeline customers to certify and verify their eligibility based on self-certification pending implementation of a centralized eligibility database. For the same reasons, the Commission should make clear that the ETCs

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[16] NPRM at ¶¶ 103-125.

[17] *Id.* at ¶ 170.

[18] *See supra* Section I.A.

may obtain customers' signatures on certifications in electronic form or telephonically, either via authenticated live voice call or electronic voice response ("IVR").[19] As the NPRM observes, electronic signatures are specifically authorized by federal statute, and both electronic signature and IVR are now in broad use in a wide range of consumer financial transactions. Pending implementation of an eligibility database, self-certification, including by electronic signature, voice, and IVR, should specifically be allowed.

IV. OTHER ADMINISTRATIVE REQUIREMENTS SHOULD BE STREAMLINED

A. The Burdens of Pro-Rata Reporting Do Not Justify the Benefits

While it is feasible for ETCs to track and report subscribers who initiate or terminate service mid-month, this is substantially more burdensome than simply requiring carriers to report their subscriber counts as of a given reporting date, such as the first day of the month. If the Commission adopted a uniform rule requiring reporting as of a specific date, new and departing subscribers should balance each other out. This would result in an outcome that is just as fair to all concerned and substantially less burdensome.

B. The Audit Process Should Be Standardized

The Commission is correct that "[a]udits are an essential tool for the Commission and USAC to ensure program integrity and to detect and deter waste, fraud, and abuse."[20] In Conexions' experience, however, the low-income audit process currently is hamstrung by an alarming lack of clarity on the part of USAC auditors regarding the standards against which they are auditing carrier behavior. Certainly, part of the problem is the legal uncertainty regarding the issues that the Commission seeks to resolve in this proceeding.

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[19] NPRM at ¶¶ 223-225.

[20] *Id.* at ¶ 95.

Once the low-income USF rules are clear, USAC and the Commission should collectively prepare a uniform set of low-income auditing guidelines. Such guidelines would serve as a valuable tool to focus and direct the auditors' activities. These guidelines also should be distributed to ETCs, so that ETCs have a clear sense of their compliance obligations and how they will be measured. A clear set of auditing standards, understood by both USAC and ETCs, would go a long way to improving program integrity.

C. The Program Would Benefit from Uniform Eligibility Rules

Conexions supports the Commission's proposal to move to more uniform eligibility standards for Lifeline and Link-Up participation.[21] Currently, different states have varying eligibility requirements, which requires ETCs operating in multiple states to implement different systems for different states. This is burdensome to carriers, and confusing to consumers who may move from one state to another and face different eligibility rules.

Conexions also supports the proposal to loosen the income-based eligibility criterion to permit consumers to qualify if their incomes are below150% of Federal Poverty Guidelines.[22] As the NPRM observes, many of the Lifeline-qualifying programs have already 15% as their income standard, such that consumers are qualifying at this income level in any event.[23] Particularly given current economic conditions, this rule change would serve the purposes of the program.

[21] *Id.* at ¶ 154.

[22] *Id.* at ¶ 157.

[23] *Id.*

D. Capping the Low-Income Fund Is Unnecessary and Impracticable

As the NPRM rightly notes, "[m]any of the proposals contained [in the NPRM] to eliminate waste, fraud, and abuse and improve program administration could reduce expenditures and the size of the program, and "fund growth is not necessarily indicative of waste, fraud, and abuse."[24] The Commission should therefore implement the reforms discussed herein, and assess the results, before considering whether constraints are necessary on the size of the program.[25]

A cap on the low-income fund would run entirely contrary to the program's goals. As the Joint Board and the Commission have observed, only a fraction of eligible low-income consumers have historically participated in the low-income program, and the states and the Commission have implemented various measures seeking to increase enrollment.[26] Now that enrollment finally is on the rise, it makes no sense for the Commission to impose an artificial constraint on consumer participation.

Implementation of a low-income cap also would be entirely impracticable. As the NPRM observes, implementation of a cap would require the Commission to decide, for example, how to allocate capped funding among the states and among existing and new Lifeline customers.[27] Would all customers receive less support on a pro-rata basis, or would there be some system of priority? Who would be given priority – existing customers, that have already received support

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[24] *Id.* at ¶ 144.

[25] *Id.* at ¶ 145.

[26] *Id.* at ¶ 228. *See also, e.g., FCC and NARUC Launch "Lifeline Across America" to Raise Awareness of Lifeline and Link-Up Programs,* News Release (July 26, 2005), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-260129A1.pdf.

[27] NPRM at ¶¶ 147-148.

for some period of time, or new customers that have not yet had the opportunity to benefit from support? There are no satisfactory answers to any of these questions, and no clear way to justify a cap under the statutory requirement that support be “sufficient” to ensure that services are “affordable” for low-income consumers.[28]

V. CONCLUSION

The Lifeline and Link-Up programs have a long history of making telephone service more affordable for low-income Americans. The Commission should reform these programs to improve their administration, including adoption of the industry proposal for addressing duplicate claims.

Respectfully submitted,

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April 21, 2011

[28] 47 U.S.C. §§ 254(e), 254(b)(1), 254(b)(3).